

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
630666.00010

First named inventor: Esmail Jabbari

Application No.: 10/568,058

Art Unit: 1615

Filed: May 7, 2008

Examiner: Lyndsey Beckhardt

Title: Hydrogel porogens for fabricating biodegradable scaffolds

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional

1. Petition Fee

☒ Small entity-fee \$ 810 (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.

☐ Other than small entity-fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Response to a Restriction Requirement (identify type of reply):

☒ has been filed previously on 7/16/2009 10/19/2010 HUUONG1 00000022 10568058

☒ is enclosed herewith. 01 FC:2453

810.00 OP

B. The ~~issue fee and publication fee~~ ^{one-month extension} fee (if applicable) of \$ 65

☐ has been paid previously on _____

☒ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

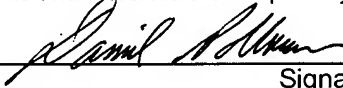
3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.


Signature
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Type or Printed name
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Address

10/15/10
Date
38996
Registration Number, If applicable
623 780 9988
Telephone Number

- Enclosures: ☒ Fee Payment
☒ Reply
☐ Terminal Disclaimer Form
☒ Additional sheets containing statements establishing unintentional delay
☒ Other: \$65 fee for one month extension on the Restriction Requirement Response

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

10/15/10
Date


Signature

Daniel Pollmann
Typed or printed name of person signing certificate



CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop PETITIONS, Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 on the date set forth below.

Signature: David S. Miller Date: 10/15/10

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Application : 10/568,058 Confirmation No.: 3700
Applicants : Jabbari et al. Art Unit : 1615
Filed : May 7, 2008 Docket No. : 630666.00010
Title : Hydrogel Porogens for Fabricating Biodegradable Scaffolds
Examiner : Lyndsey Beckhardt

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**APPLICANTS' EXPLANATION IN SUPPORT OF THE PETITION TO REVIVE THE
UNINTENTIONALLY ABANDONED
PATENT APPLICATION (S/N 10/568,058)**

Commissioner:

In response to the Notice of Abandonment dated March 17, 2010 issued by the patent Office for this application, Applicants' respectfully submit this *Petition to Revive Applicants' Unintentionally Abandoned Patent Application*, serial number 10/568,058.

The stated basis for the abandonment was for a defective response to a Restriction Requirement dated May 19, 2009. The undersigned, as patent attorney for Applicants, filed a Response to the Restriction Requirement on July 16, 2009 with a Petition for a one-month

extension of time. The payment of the extension fee of \$65 was submitted using a PTO form 2038 to pay by credit card. Unbeknownst to Applicants, the credit card company declined to process the \$65 charge for the fee payment. As a result, the patent Office deemed the Response to the Restriction Requirement to be inappropriate. On March 12, 2010, Examiner Beckhardt placed a telephone call to Mr. Richard Roche, the prior attorney prosecuting this application, to inform him that the application was to be abandoned. According to the Examiner's Communication Log, he did not reach Mr. Roche, but instead left a message. Mr. Roche did not contact us to inform us of the message left by the Examiner.

In response to the Notice, Applicants respectfully request that the application be revived.

Applicants have enclosed a check in the amount of \$810 for the Petition Fee for a small entity and a check for \$65 for the prior submitted one-month extension of time on the prior filed Response to the Restriction Requirement.

Respectfully submitted,



Daniel Pollmann
Attorney for Applicants
Registration No. 38,996
Telephone: (623) 780-9988
Facsimile: (623) 580-9720



EPW

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 on the date set forth below.

Signature: *Paul Allen* Date: 7/16/09

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Application : 11/568,058 Confirmation No.: 3700
Applicants : Jabbari et al. Art Unit : 1615
Filed : May 7, 2008 Docket No. : 630666.00010
Title : Hydrogel Porogens for Fabricating Biodegradable Scaffolds
Examiner : Lyndsey Beckhardt

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPLICANTS' RESPONSE TO THE RESTRICTION REQUIREMENT

Commissioner:

This paper is submitted in response to the Official Action dated May 19, 2009 having a response due date set for June 19, 2009.

The Office Action requires restriction to one invention under 35 U.S.C. 121 and 372.

Applicants are required to elect one of the following inventions:

Group I, claims 1-25, drawn to a composition for fabricating a porous scaffold.

Group II, claims 26-28, drawn to a method for fabricating a scaffold for tissue regeneration.

In response to the Office Action, Applicants request examination of the Group I invention claimed by Claims 1-25.

The Office Action also requires an election of species. If Group I is elected (which it was above), Applicants are required to elect one of the following species:

a) Hydrogel particles recited in claims 1, 5-10 and 19-20.


b) Bioactive agent recited in claim 17.

In further response to the Office Action, Applicants elect species (a) of Group I as set forth.

This election is made without traverse, it being understood that Applicants' rights to the filing of a Divisional application directed to the non-elected subject matter under 35 U.S.C. §120 and 35 U.S.C. §121 are retained.

Applicant respectfully petitions for an appropriate extension of time. Enclosed is PTO form PTO/SB/22 and PTO form 2038 for credit card payment of the extension.

Respectfully submitted,



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